

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Reallocation of Television Channels	)	ET Docket No. 97-157
60-69, the 746-806 MHz Band	)	

**COMMENTS OF  
THE LAND MOBILE COMMUNICATIONS COUNCIL**

The Land Mobile Communications Council (LMCC) hereby submits these comments in response to the FCC's *Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>1</sup> As set forth below, the LMCC supports the Commission's efforts to reallocate the 746-806 MHz band and submits that this spectrum should be made available promptly for public safety users and land mobile service applications. LMCC, however, opposes broadcast use of this spectrum beyond that absolutely necessary to transition existing incumbent broadcast stations out of the 746-806 MHz band. Additional long term use of the band for broadcast purposes would negatively impact public safety operations and commercial use required by the Balanced Budget Act of 1997. Further, LMCC believes sufficient spectrum exist in the remaining portion of the television broadcast allocation to accommodate any public interest considerations associated with over-the-air broadcast programming.

LMCC is a non-profit association of organizations representing virtually all users of land mobile radio and providers of land mobile services and equipment. LMCC acts on behalf of the

<sup>1</sup> *In the Matter of Reallocation of Television Channels 60-69, the 746-806 MHz Band*, ET Docket No. 97-157, FCC 97-245 (rel. Jul. 10, 1997) ("*Notice*" or "*NPRM*").

vast majority of public safety, business, industrial, private, common carrier, and land transportation radio users, as well as a diversity of land mobile service providers and equipment manufacturers.

LMCC's membership includes the following organizations representing millions of mobile system users, operators and equipment providers:

- American Association of State Highway and Transportation Officials (AASHTO)
- American Automobile Association (AAA)
- American Mobile Telecommunications Association (AMTA)
- American Petroleum Institute (API)
- American Trucking Associations, Inc. (ATA)
- Association of American Railroads (AAR)
- Association of Public Safety Communications Officials-International, Inc. (APCO)
- Cellular Telecommunications Industry Association (CTIA)
- Central Station Alarm Association (CSAA)
- Forest Industries Telecommunications (FIT)
- Forestry-Conservation Communications Association (FCCA)
- Industrial Telecommunications Association, Inc. (ITA)
- International Association of Fire Chiefs (IAFC)
- International Association of Fish and Wildlife Agencies (IAFWA)
- Intelligent Transportation Society of America (ITSA)
- International Municipal Signal Association (IMSA)
- International Taxicab and Livery Association (ITLA)
- Manufacturers Radio Frequency Advisory Committee (MRFAC)
- National Association of State Foresters (NASF)
- Personal Communications Industry Association (PCIA)
- Telecommunications Industry Association (TIA)
- UTC, The Telecommunications Association (UTC)

## I. INTRODUCTION

This proceeding is an important next step in the Commission's and Congress' effort to recover spectrum between 746 MHz and 806 MHz, which is currently used for television broadcast channels 60-69. The *Notice* seeks comment on the proposed allocation of 24 MHz of spectrum for public safety services and 36 MHz for fixed, mobile and broadcasting services in the 746-806 MHz band.<sup>2</sup> The Commission also seeks comment on other issues related to existing television broadcasting operations in the proposed allocation, including the impact on secondary low power television operations and pending requests for digital television allotments.<sup>3</sup> As detailed more fully below, subsequent to issuance of the *Notice* in this proceeding, legislation was adopted requiring the Commission to allocate the 746-806 MHz band by January 1, 1998 for public safety and commercial uses. Therefore, this proceeding is an important step in implementing that Congressional direction.

The framework for recovering the 746-806 MHz spectrum now allocated as television channels 60-69 was established in the *Advanced Television* proceeding. In that proceeding, the FCC allocated spectrum for digital broadcasting services in a manner that sought to recover channels 60-69 promptly to meet the critical spectrum needs of other services, including public

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<sup>2</sup> *Notice* at ¶¶ 10-11, 13-14.

<sup>3</sup> *Id.* at ¶¶ 18, 21.

safety and commercial applications.<sup>4</sup> In developing its channel allotment plan, the Commission excluded channels 60-69 from the "core" digital television spectrum and attempted to minimize digital television allotments in these channels during the transition to digital broadcasting, though existing analog service and temporary digital television operations on channels 60-69 are protected until the end of the transition period targeted for the year 2006.<sup>5</sup>

Following the release of the *Advanced Television Sixth Report and Order* and the *Notice* in this proceeding, Congress established criteria for the relinquishment of existing analog broadcast channels and directed the FCC to allocate channels 60-69 for public safety and other commercial services in the recently-enacted Balanced Budget Act of 1997 ("Budget Act").<sup>6</sup> In particular, the Budget Act requires the Commission to reallocate the 746-806 MHz band by January 1, 1998 and make available 24 MHz of that spectrum for public safety and the remaining 36 MHz for commercial use. Further, the Budget Act requires the Commission to commence assignment of public safety licenses in this band by September 30, 1998<sup>7</sup> and to begin competitive bidding for licenses in the 36 MHz after January 1, 2001 with completion of the auctions process by

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<sup>4</sup> See, e.g., *Advanced Television Sixth Report and Order*, MM Docket No. 87-268, FCC 97-115 (rel. Apr. 21, 1997).

<sup>5</sup> *Advanced Television Sixth Report and Order* at ¶¶ 76-84.

<sup>6</sup> See Balanced Budget Act of 1997, P.L. 105-33, §§ 3003, 3004.

<sup>7</sup> *Id.* at § 3004.

September 30, 2002.<sup>8</sup> Accordingly, the LMCC submits its comments in accordance with the Commission's *Notice* and the clear directive of the Budget Act.

## **II. THE LMCC SUPPORTS THE PROPOSED ALLOCATION OF THE 746-806 MHZ BAND FOR PUBLIC SAFETY AND OTHER MOBILE APPLICATIONS BUT OPPOSES FLEXIBILITY FOR ADDITIONAL BROADCAST USE**

The *Notice* seeks comment on the proposed public safety allocation and commercial services allocation in the 746-806 MHz spectrum band. Specifically, the Commission proposes to allocate: (1) 24 MHz of spectrum for fixed and mobile public safety applications in two 12-MHz blocks between 764-776 MHz and 794-806 MHz; and (2) the remaining 36 MHz of spectrum in two 18-MHz blocks between 746-764 MHz and 776-794 MHz for fixed, mobile and broadcasting services.<sup>9</sup> With the exception of the proposed flexibility to allow additional broadcast use in the 36 MHz segment, the Commission proposal appears to be consistent with subsequent Congressional requirements set forth in the Balanced Budget Act of 1997.

The LMCC concurs with the Commission's proposed spectrum allocation for public safety services in order to meet the needs of the public safety community and comply with the requirements of the Budget Act. As recently documented by the Public Safety Advisory

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<sup>8</sup> *Id.*

<sup>9</sup> *Notice* at ¶¶ 9, 13.

Committee (PSWAC) in its report to the Commission, additional public safety spectrum is necessary to alleviate current spectrum crowding and facilitate the deployment of advanced services.<sup>10</sup> Consistent with the findings of the PSWAC report, the proposed public safety allocation will help mitigate current spectrum crowding, enhance interoperability among public safety organizations and provide an allocation to support development of cost effective advanced communications products.

LMCC also believes that the 746-806 MHz band is ideal for other land mobile applications. The proximity of this allocation to existing land mobile services would enhance the capacity of existing operations and promote the development of interoperable equipment, and possibly a single handset capable of operating across the entire band. In addition, the amount of spectrum available in the proposed allocation and the existence of two 18-MHz spectrum blocks would appear to support the channelization required for interactive communications and the necessary separation requirements between such channels. However, as discussed below, LMCC opposes that portion of the Commission's proposal which would provide flexibility to license additional broadcast operations in the 746-806 MHz band.

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<sup>10</sup> See PSWAC, *Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission and the National Telecommunications and Information Administration (Final Report)* (Sept. 1996); see also *The Development of Operational, Technical, and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, WT Docket No. 96-86, 11 FCC Rcd 12460 (1996).

While the LMCC supports the recovery of spectrum currently allocated to broadcast channels 60-69, it is concerned that the FCC's proposed flexible "broad allocation" for other services, including broadcasting, may prevent efficient spectrum utilization and limit deployment of public safety and other mobile operations. Accordingly, the Commission's "flexible" proposal could substantially undermine Congressional intent and practical deployment of public safety and other mobile services in the 746-806 MHz band.

There are fundamental operational differences between broadcast and mobile operations. For example, full power UHF broadcast television stations today radiate up to 5 million Watts of power, precluding practical mobile use of the same and sometimes even adjacent spectrum for miles around a given TV transmitter site. Even with these differences, however, experience has shown that it is possible for these services to share spectrum based on band and geographic segmentation.<sup>11</sup> For this reason, LMCC supports recovery of the 746-806 MHz band, even considering the need for sharing criteria that will be necessary to avoid interference between mobile users and approximately 100 incumbent broadcast operations during an interim transitional period. However, it is abundantly clear that initiating an opportunity to place more broadcast operations in the 746-806 MHz band would unnecessarily impact public safety use and is likely to devalue this spectrum for commercial operations as well.

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<sup>11</sup> Public safety/private land mobile operations and television broadcast have successfully shared spectrum within the 470-512 MHz band in eleven top urban areas for approximately 30 years.

For example, introducing additional broadcast operations into the mix may preclude the Commission from organizing the recovered spectrum in a rational manner that supports cost effective mobile operations. If the Commission rededicates a given 6 MHz block of spectrum to broadcasting, it could “orphan” a companion 6 MHz block, making paired spectrum for cost effective mobile operations difficult. In essence, every 6 MHz deployed for new broadcast operations cast a cloud of devaluation on at least 12 MHz of spectrum for mobile use.

Licensees today avoid interference through frequency coordination. This can take several forms. For private land mobile services coordination is “formalized” as applicants submit requests for specific sets of frequencies to an industry coordinator. For services such as cellular or PCS, operators are licensed a relatively broad block of spectrum but must coordinate informally with their neighboring operators to ensure that specific sites do not interfere and to minimize the need for guardbands which could otherwise lead to less efficient spectrum use. This process generally works well as specific frequencies can be assigned to specific sites within the overall system. However, it is not clear how such an after-market informal coordination process would take place among mobile and broadcaster auction winners, given that broadcast would normally use the entire spectrum block at a site.

Finally, LMCC believes sufficient opportunities exist to offer the public substantial programming options, without extending broadcast use in the 746-806 MHz band beyond some minimal transition period necessary to deal with the rights of today’s operational incumbents.

Today, terrestrial over-the-air television enjoys an allocation of over 400 MHz of spectrum. Reallocating the 746-806 MHz band should still leave more than adequate spectrum for public reception of a full variety of programming services.

The 400 MHz wide television allocation was made in the days when over-the-air broadcast was the primary method through which the public received television programming. However, alternative methods of delivering that programming have flourished and over-the-air delivery is no longer the majority delivery medium. Today, approximately 65% of the U.S. TV households receive their local and national programming over cable. Multiple Direct Broadcast Satellite providers offer another programming “pipe” into the home and the Telecommunications Act of 1996 sets the stage for additional highways of video entertainment. Recent trade reports even indicate that the summer 1997 market share for programming generated by cable companies exceeds that for programming offered by the top television networks.

The Commission previously recognized that today only about 120 MHz of that 400 MHz is actually used for primary television operations even in the largest cities. Outside the largest cities, even less of that spectrum is put to actual use. Redeveloping the 746-806 MHz band for non-broadcast use still allows the Commission to double the spectrum each primary television licensee holds during the transition to digital. Further, digital compression incorporated into the “Grand Alliance” standard reportedly would allow a broadcaster to deliver 4 separate programs in one 6 MHz channel. Accordingly, LMCC fully supports reallocation of the 746-806 MHz band totally for public safety and other mobile operations and recommends that the Commission modify its proposed allocation to preclude use of the 746-806 MHz band for broadcast uses beyond the absolute minimum required transition period.

### **III. THE COMMISSION SHOULD ACT PROMPTLY TO FACILITATE THE LICENSING OF PUBLIC SAFETY AND LAND MOBILE SERVICES IN THE 746-806 MHz BAND**

The *Notice* also seeks comment on a number of issues that impact the allocation of services in the 746-806 MHz spectrum band, though it defers consideration of service and licensing rules to a future proceeding. In particular, the Commission asks whether accommodations can be made for secondary low power television operations in the 746-806 MHz band -- such as allowing private agreements to tolerate otherwise unacceptable levels of interference -- without impeding the use of this spectrum for other services, and comment is sought on the appropriate disposition of pending applications for permits and allotment petitions for digital television operations in this band.<sup>12</sup>

The LMCC strongly urges the Commission to maximize the availability of the 746-806 MHz band for new public safety and other land mobile services by ensuring that all broadcast services ultimately cease operation in this band at the earliest possible opportunity. As the *Notice* points out, the FCC's rules already provide a number of accommodations to low power television broadcasters that mitigate the impact of conversion to digital television, including permitting continued operation of such services until they actually cause interference to a primary service licensed in the 746-806 MHz band. The LMCC thus maintains that no further

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<sup>12</sup> *Notice* at ¶¶ 18-22.

rule changes for these services are necessary and additional accommodations could impede use of the proposed allocation by public safety and other services. Accordingly, rather than taking additional steps to protect secondary, low power operations in the 746-806 MHz band, the Commission should accommodate the long-term viability of these operations in the "core" spectrum allocated to digital television.<sup>13</sup> Further, we note that the Balanced Budget Act requires the Commission to seek accommodation for any qualifying low power television station below 746 MHz.

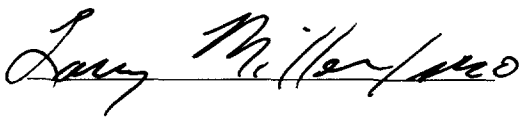
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<sup>13</sup> The LMCC, however, does not oppose the Commission's suggestion to allow licensees to enter into private agreements with low power television broadcasters provided that the these agreements are strictly voluntary and the Commission does not delay the transition of these operations to other spectrum.

#### IV. CONCLUSION

LMCC fully supports the Commission proposal, with the exception of provisions which would allow additional broadcast operations in the 746-806 MHz band. While provisions to share with existing operational full power broadcasters during the transition period will obviously be needed, LMCC urges the Commission not to extend broadcast operation in the 746-806 MHz band beyond the transition period. Doing so would frustrate the requirements of the Balanced Budget Act regarding allocation of the 746-806 MHz band for public safety and commercial operations. As evidenced at 2.3 GHz, unbridled flexibility and associated regulatory uncertainty will only serve to devalue this prime spectrum for non-broadcast uses.

Respectfully submitted,

A handwritten signature in cursive script, reading "Larry Miller", followed by a horizontal line and a date "9/15/97".

Larry Miller, President  
Land Mobile Communications Council  
(202) 624-8480

September 15, 1997